

# LLNL COMMERCIAL PROCUREMENT PROCEDURES

**Title: Construction and Architect-Engineer Subcontracts**

**Procedure No.: P-1200**

**Issue Date: June 21, 2000**

**Supersedes: September 25, 1998**

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## I. PURPOSE

This procedure defines the requirements and procedures for subcontracts involving construction or architect-engineer (A-E) services.

## II. SCOPE

This procedure applies to all solicitations and subcontracts issued by Procurement & Materiel for construction and A-E services at any location, including LLNL and Site 300, as required by the requester.

## III. GENERAL

Construction is the construction, alteration or repair (including dredging, excavating, decorating and painting) of buildings, structures or other real property. A-E services are professional services generally associated with the design, alteration, construction or repair of real property. A-E services may also include other services normally performed by A-E firms including engineering and environmental studies, investigations, surveys, evaluations, consultations, planning, conceptual designs, plans and specifications, cost estimates, and professional recommendations. Real property is land, permanent buildings or other structures, improvements to land and the land's natural assets. Real property is both immobile and tangible.

## IV. PROCEDURES FOR CONSTRUCTION SUBCONTRACTS

### A. Requisitions

When the expenditure will exceed \$2,000, requisitions for construction should include a ruling on the applicability of the Davis-Bacon Act (DBA). However, requisitions for work that is obviously subject to the DBA need not have a ruling. If the expenditure will exceed \$250,000, the requester must also provide an independent detailed price estimate with the requisition.

### B. Solicitation Methods

The procurement specialist will select the solicitation method that best fits the project and the anticipated expenditure. Competition and supplier identification will be in accordance with Procedure No. P-300, *Competition / Supplier Identification*. When the solicitation is competitive and the award will exceed \$250,000, the procurement specialist will publicly advertise for either sealed bids or pre-qualified bidders. The procurement specialist should use pre-qualified bidders when the project is highly complex or very expensive and where the skills and experience of the subcontractor are critical for successful completion of the project. The procurement specialist should apply uniform pre-qualification criteria to potential bidders expressing interest. When issuing solicitations, the procurement specialist may request either sealed bids or proposals for best value source selection. Best value source selection may be used when non-price evaluation criteria are significant for successful completion of the construction subcontract.

The procurement specialist must allow bidders sufficient time to prepare bids based on the project, the season, and the complexity of the project. Solicitations must adequately describe the work, considerations associated with the work, the location of the work, and special qualifications related to responsibility of a bidder. Solicitations must include an estimated price range,

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information about the site visit, when the bids are due, the basis for award, the performance period in days after notice to proceed, security-related concerns and the amount of liquidated damages, if used, which will apply to the subcontract. Bid bonds may be waived with Group Leader approval.

**C. Site Visit**

The procurement specialist will provide an opportunity for all bidders to inspect the site if the procurement specialist and the requester deem a site visit necessary.

**D. Bid Opening**

The procurement specialist will normally use a public bid opening for sealed bid solicitations.

Publicly opened bids will be read to all attendees. For non-publicly opened bids, notification of unsuccessful bidders and information about the successful bidder will be handled in accordance with Procedure No. P-500, Supplier Selection.

**E. Subcontract Type and Pricing Methods**

Construction subcontracts are generally firm, fixed-price and use lump sum pricing, unit pricing or a combination of lump sum and unit pricing. Lump sum pricing is preferred. Subcontracts for work subject to the DBA will incorporate the most recent general wage determination and will require the subcontractor's compliance.

**F. Preconstruction Meeting**

If necessary, the procurement specialist may hold a preconstruction meeting with the subcontractor and other pertinent Laboratory personnel. Particular emphasis should be placed on labor standards, ES&H requirements, insurance, permits and the schedule, as applicable.

**G. Notice to Proceed**

The notice to proceed will state the subcontract number and identify actual start and completion calendar dates.

**H. Administration of Labor Standards**

The subcontractor must submit certified weekly payrolls for verification of compliance with labor standards per SP 22.4, *Construction Labor Standards*.

**I. Payments**

The subcontractor's request for payment will be in the form of an invoice and supporting documentation. Before authorizing payment, the procurement specialist will obtain concurrence from the requester that payment is reasonable. Work may include the timely purchase of materials needed for the project. Payments may be subject to a percentage retention. Any accumulated retention will be released to the subcontractor 35 days after a notice of completion has been recorded by the county.

**J. Modifications**

In-scope changes to the project, including changed work, additional work and deletion of work, will be implemented by modification of the subcontract. Changes will be supported by a price

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breakdown in sufficient detail to permit analysis and justification of costs associated with the change, including lower tier subcontracts issued by the subcontractor. Changes involving revision of the project completion date will justify such revision. Changes involving price revisions will be supported by a properly executed requisition, subcontract modification authorization or equivalent.

**K. Prevention of Conflict of Interest**

The procurement specialist must not award a subcontract for construction to the A-E firm, or an affiliate, that prepared the design. This prohibition does not preclude the award of a "turnkey" subcontract provided the subcontractor assumes all liability for defects in design and construction and for any consequential damages.

The procurement specialist must not award both a cost reimbursement subcontract and a fixed price subcontract for construction or A-E services, or any combination thereof, to the same firm where those subcontracts will be performed at any LLNL site, including Livermore and Site 300.

The procurement specialist must not allow a construction subcontractor, or an affiliate, to inspect the construction subcontractor's work. The procurement specialist must assure that the working relationships of the construction subcontractor and the subcontractor inspecting its work, as well as the authority of the inspector, are clearly defined.

**V. PROCEDURES FOR ARCHITECT-ENGINEER SUBCONTRACTS**

**A. Solicitation Methods**

All subcontracts for A-E services with an anticipated value over \$100,000 will be solicited and awarded using best value source selection. A-E subcontracts valued at \$100,000 or less may be solicited and awarded using the most appropriate technique for the project at hand. A-E services should normally be considered to be commercial services, for the purpose of determining the reasonableness of the offered price(s) and whether certification of cost or pricing data is required.

**B. Organizational Conflicts of Interest**

A-E subcontracts awarded principally for the purpose of providing evaluation services and activities or technical consulting and management support services may be subject to the requirements of SP 9.3, Organizational Conflicts of Interest. The provisions of SP 9.3 do not apply to A-E subcontracts awarded solely for architect or engineering services.